

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th and Constitution Avenue, NW
Washington, DC 20551

RE: Regulation R-1366 (Proposed Rule on Closed-End Mortgage Lending)

Dear Ms. Johnson:

SchoolsFirst Federal Credit Union serves school employees in Southern California we have more than 400,000 Members and over \$8 billion in assets. SchoolsFirst FCU is pleased to have the opportunity to comment on the proposed rule amending Regulation Z as it relates to closed-end, dwelling-secured mortgage lending.

While we are generally supportive of the Federal Reserve Board's proposal to bring reform to the mortgage market and to clarify the mortgage process for consumers, there are certain parts of the proposal which we feel may have unintended consequences and which may ultimately work to the detriment of the consumer.

Finance Charges

Our concern with this aspect of the proposal is that it includes fees in the finance charge which are not truly a cost of credit. We feel that a preferable approach would be to include in the finance charge only fees that a lender can reasonably be expected to know. Specifically, the new definition of a finance charge contained in the proposal would require lenders to disclose fees which may be assessed by a third party.

The proposed rule unequivocally requires fees for closing agents to be included as part of the finance charge. This is problematic inasmuch as the lender has no control over the fees charges by the closing agent. While lenders can provide an estimate of the third party closing fees it would not be possible for a lender to provide exact fees on the binding Good Faith Estimate required within three days of application. There will undoubtedly also be some situations in which the lender will be unable to provide exact third party closing fees on the disclosures that must be provided three days prior to consummation. As a result, many closings will have to be delayed until final figures can be obtained.

We also do not believe that taxes should be included in the finance charge. Taxes are not imposed nor retained by the lender and thus, should not be reflected in the cost of credit. Furthermore, many situations will arise in which the total taxes will be difficult to establish until just prior to closing. This will further delay the closing of first mortgage transactions, the detriment of the borrower.

Furthermore, the inclusion of these "non-lender" charges in the definition of a finance charge, could well result in usury-cap issues for federal credit unions in transactions involving smaller loan amounts.

Disclosures

While we understand the Board's concern in all material terms of a loan being disclosed to a borrower, we are concerned that the onerous new disclosure process required by this proposal will result in little actual benefit to the consumer, while requiring extensive fundamental changes to the existing framework of closed-end mortgage lending. New disclosures would be required, existing disclosures would need to undergo major modifications and new waiting periods would be imposed. Lenders would be required to undertake comprehensive changes to their lending structure and compliance systems. Employees would need extensive training; core processing and software systems would require major overhauls at a substantial expense to lenders.

In light of these changes, as well as the other significant changes to Regulation Z, we believe that a minimum implementation period of 180 days should be afforded to lenders to come into compliance with the rule.

Disclosures within Three Days of Application

We encourage the Board to reconsider the proposal that lenders provide a new graph with the TILA early disclosures. The proposed rule would require lenders to provide borrowers with a graph detailing the APR for borrowers with excellent credit as well as the APR for borrowers with impaired credit. It is our experience that borrowers already recognize the importance of their credit score and the impact that said score has on the cost of credit.

The requirement to provide a graph would be unduly burdensome on lenders who would need to implement new software capable of extrapolating the figures for prime loans and "higher priced" loans from a database for conversion to the requisite graph. Furthermore, given the consumer testing data which shows that many consumers do not read the disclosures currently required under RESPA and TILA, we doubt that the benefit of adding even more disclosures will outweigh the financial strain placed on mortgage lenders by this proposal.

Disclosures Three Days before Closing

While we understand the Board's interest in preventing lenders with last minute fees at closing, we believe that the proposal to require an absolute three waiting period between closing disclosures and consummation will result in a very serious unintended consequence for borrowers in purchase transactions.

Nearly all real estate contracts require buyers to place an "earnest money" deposit into escrow which the seller may keep as liquidated damages in the event that the sale is not consummated on the date agreed upon between the parties. By eliminating the exception for bona fide financial emergencies, the proposed rule would generate substantial problems for buyers when the contract date for closing falls during the three day waiting period. Borrowers in such cases would be placed at the mercy of sellers who would have the unfettered right to cancel the transaction and keep the borrower's deposit.

If the Board elects to retain this disclosure requirement, we would respectfully request that the bona fide financial emergency exception be retained to address situations such as the one described above.

Redisclosure Requirements

The proposed rule contains two alternative approaches to redisclosure requirements. Under the first alternative, lenders would be required to redisclose the final TILA notice if there was any

change in the terms of the loan. The second alternative would require redisclosure only if the final APR exceeded a certain minimum tolerance or if an adjustable rate feature is added to the loan transaction.

We believe that the second alternative would be the most appropriate, especially if the Board elects to implement the absolute three-day waiting period discussed above. Requiring an additional three day delay if any terms of the loan change would serve only to compound the potential problems created by the waiting period.

Under the second alternative, the variance threshold for the accuracy of a finance charge is less than \$100.00. Given the fact that the proposed rule would include third party charges over which the lender has no control in the calculation of the finance charge, a \$100.00 tolerance seems untenable. We would suggest that, if the Board elects to adopt the proposed definition of a finance charge, a tolerance of at \$500.00 would be more appropriate. We would also suggest that this tolerance should be tied to inflation in subsequent years.

Language of Disclosures

The proposed rule requests comment on the necessity of providing disclosures to consumers in a language other than English. We believe that the most equitable solution would be to require translated disclosures to be provided only in cases where the loan terms are negotiated in a language other than English (as in the California and Texas statutes cited in the proposal) and the consumer affirmatively requests that the translated disclosures be provided.

It is our experience that many bilingual Members feel more comfortable *speaking* in Spanish while preferring written documents to be in English, as that is what they are accustomed to reading. Thus, our suggested approach would only require lenders to undergo the added expense of providing translated disclosures in situation where the consumer actually has such a preference.

SchoolsFirst Federal Credit Union appreciates this opportunity to comment on the proposed revisions to Regulation Z affecting closed-end mortgage lending.

Sincerely,

Rudy Hanley
President/CEO
SchoolsFirst Federal Credit Union

cc: Credit Union National Association (CUNA)
California/Nevada Credit Union League (CCUL)